

ESTTA Tracking number: **ESTTA509535**

Filing date: **12/06/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	SF Mode		
Entity	Societe Par Actions	Citizenship	France
Address	69 rue d'Hauteville Paris, 75010 FRANCE		

Attorney information	Jeffrey P. Thennisch Dobrusin & Thennisch PC 29 West Lawrence Street Suite 210 Pontiac, MI 48342 UNITED STATES tmmail@patentco.com, bwhitten@patentco.com, jeff@patentco.com Phone:(248)292-2920
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Applicant Information

Application No	85628527	Publication date	12/04/2012
Opposition Filing Date	12/06/2012	Opposition Period Ends	01/03/2013
Applicant	Wanderlust Festival, LLC 26 Dobbin Street, 3rd Floor Brooklyn, NY 11222 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Arranging and conducting nightclub entertainment events; Concert booking; Conducting entertainment exhibitions in the nature of live music festivals; Entertainment, namely, live music concerts; Production of streaming video in the fields of yoga, music, and entertainment; Providing an on-line computer database in the fields of music, yoga and entertainment; Educational services, providing instruction, conferences, workshops and professional training in the fields of yoga, meditation, spiritual attunement, exercise and aerobic fitness, diet and nutrition, stress management and relaxation, outdoor recreation, holistic health care, preventative health care, alternative health care, therapeutic massage and alternative healing; Providing physical fitness studio services, namely, providing group yoga, exercise and aerobic fitness instruction and training; Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; Providing on-line journals and web logs featuring user-created content in the fields of music, yoga, and entertainment

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	79118868	Application Date	08/16/2012
Registration Date	NONE	Foreign Priority Date	02/16/2012
Word Mark	WANDERLUST		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Disks, tapes, compact disks, audio devices, audiovisual devices, sound, video and data recordings in the form of disks, films for recording sounds, magnetic recording media, sound recording disks or optical disks, compact disks (audio-video)</p> <p>Class 041. First use: Entertainment; discotheque services; club services (entertainment); providing online electronic publications, not downloadable; providing amusement arcade services; game services provided on-line from a computer network; publication of books or periodicals; leisure services; providing karaoke services; music-halls; organization of balls; organization of competitions (entertainment); organization of shows; party planning; theater productions; operation of movie theaters; operation of concert halls, night clubs; organization of exhibitions for cultural purposes (for art work exhibitions); cinematographic film projection; organization of concerts, of conferences</p> <p>Class 043. First use: Providing food and drink (accommodation); food and drink catering; temporary accommodation, bar services</p>		

Attachments	79118868#TMSN.jpeg (1 page)(bytes) 12 05 2012 Notice of Opposition.pdf (5 pages)(15784 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey P. Thennisch/
Name	Jeffrey P. Thennisch
Date	12/06/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of

Serial No.: 85/628,527

For the Mark: WANDERLUST LIVE

Filing Date: May 17, 2012 OPPOSITION NO. _____

International Class: 041

SF MODE

Opposer,

v.

WANDERLUST FESTIVAL, LLC

Applicant.

NOTICE OF OPPOSITION

Opposer, SF MODE, is an entity organized under the laws of France, more commonly known as SF Mode, Societe Par Actions Simplifiee A Associe Unique, having an address at 69 rue d'Hauteville, 75010 in Paris, France (hereinafter "Opposer").

Opposer asserts that it will be damaged by the registration of the mark WANDERLUST LIVE (hereinafter "Applicant's Mark") as shown in U.S. Serial No. 85/628,527

(hereinafter the "'527 Application") for the following services: Arranging And Conducting Nightclub Entertainment Events; Concert Booking; Conducting Entertainment Exhibitions In The Nature Of Live Music Festivals; Entertainment, Namely, Live Music Concerts; Production Of Streaming Video In The Fields Of Yoga, Music, And Entertainment; Providing An On-Line Computer Database In The Fields Of Music, Yoga

And Entertainment; Educational Services, Providing Instruction, Conferences, Workshops And Professional Training In The Fields Of Yoga, Meditation, Spiritual Attunement, Exercise And Aerobic Fitness, Diet And Nutrition, Stress Management And Relaxation, Outdoor Recreation, Holistic Health Care, Preventative Health Care, Alternative Health Care, Therapeutic Massage And Alternative Healing; Providing Physical Fitness Studio Services, Namely, Providing Group Yoga, Exercise And Aerobic Fitness Instruction And Training; Electronic Publishing Services, Namely, Publishing Of Online Works Of Others Featuring User-Created Text, Audio, Video, And Graphics; Providing On-Line Journals And Web Logs Featuring User-Created Content In The Fields Of Music, Yoga, And Entertainment, in International Class 41, (hereinafter “Applicant's Services”), and hereby opposes the registration of the same.

To the best of Opposer’s knowledge, the name and address of the Applicant of the ‘527 Application is Wanderlust Festival, LLC, a Virginia limited liability company, having an address at 26 Dobbin Street, 3rd Floor in Brooklyn, New York 11222. To the best of Opposer’s knowledge, the Applicant’s Mark is the subject matter of an application filed on May 17, 2012 under Section 1(b) of the Lanham Act, and published for opposition in the *Official Gazette* on December 4, 2012.

AS GROUNDS FOR THE OPPOSITION, IT IS ALLEGED THAT:

1. Opposer is the owner of all right, title, and interest to International Trademark Registration No. 113160 for the mark WANDERLUST issued under the Madrid Protocol on August 16, 2012 based upon a priority filing date of February 16, 2012 of French Serial No. 123897717 by the Opposer.

2. In accordance with Section 66(a) of the Lanham Act, Opposer filed Serial No. 79/118,868 for WANDERLUST (hereinafter “the Opposer’s Mark) with the U.S. Patent & Trademark Office on August 16, 2012 which claims priority to the February 16, 2012 seniority filing date in French Serial No. 123897717.

3. The Opposer’s Mark and rights under at least Section 66(a) of the Lanham Act flowing from the February 16, 2012 priority date under the Paris Convention include the goods of: “Disks, tapes, compact disks, audio devices, audiovisual devices, sound, video and data recordings in the form of disks, films for recording sounds, magnetic recording media, sound recording disks or optical disks, compact disks (audio-video)” in International Class 009, “Entertainment; discotheque services; club services (entertainment); providing online electronic publications, not downloadable; providing amusement arcade services; game services provided on-line from a computer network; publication of books or periodicals; leisure services; providing karaoke services; music-halls; organization of balls; organization of competitions (entertainment); organization of shows; party planning; theater productions; operation of movie theaters; operation of concert halls, night clubs; organization of exhibitions for cultural purposes (for art work exhibitions); cinematographic film projection; organization of concerts, of conferences” in International Class 041, and “Providing food and drink (accommodation); food and drink catering; temporary accommodation, bar services” in International Class 043.

4. Opposer has rights of priority and seniority in the Opposer’s Mark, WANDERLUST, in connection with at least the goods and services described above since at least as early as the February 16, 2012 priority filing date of the Section 66(a)

application of Opposer's Mark, which is/are well prior to the effective filing date of the '527 Application on May 17, 2012 under Section 1(b) of the Lanham Act

5. When used, or analogously used, in connection with these goods/services, the Opposer's Mark has come to be identified in the minds of the public with Opposer. The Opposer's Mark therefore serves to distinguish Opposer as the source of goods/services provided under the Opposer's Mark, and to indicate the high quality and reputation of those goods and services provided by Opposer.

6. Through its filing, continuous use, or analogous use of the Opposer's Mark since prior to the effective filing date of the subject '527 Application on May 17, 2012, and by virtue of the success of the goods/services provided under the Opposer's Mark, Opposer has developed extensive goodwill in the Opposer's Mark as well as protectable statutory and common law trademark rights.

7. In addition to the visual similarities of the Opposer's Mark, WANDERLUST, when compared to the Applicant's Mark, WANDERLUST LIVE, Opposer asserts that the relevant goods/services provided by the parties overlap or are at least closely related in the field of entertainment and hospitality industry.

8. Opposer further asserts, and relies upon, analogous use and common law rights in the Opposer's Mark for purposes of the present opposition.

COUNT I - OPPOSITION UNDER SECTION 2(d) OF THE LANHAM ACT

9. Opposer asserts that the Applicant's Mark so resembles Opposer's Mark as to be likely, when used on or in connection with Applicant's recited services, to cause confusion, or to cause mistake, or to deceive as to the source or origin of Applicant's recited services, or to cause the public to assume erroneously that Applicant's recited

services are in some way connected with and/or sponsored by or affiliated with Opposer, within the meaning of Section 2(d) of the Lanham Act, which would injure and damage the Opposer and the goodwill and reputation it has established in the Opposer's Mark, as well as Opposer's rights under at least Section 66(a) of the Lanham Act.

10. For the foregoing reasons, the present opposition should be sustained and the subject '527 Application should be denied with respect to the Applicant's recited services.

WHEREFORE, Opposer respectfully prays that this opposition be granted and that U.S. Serial No. 85/628,527 for WANDERLUST LIVE be denied. This Notice of Opposition is submitted with the requisite \$300 filing fee corresponding to the one (1) class of services set forth in the '527 Application.

Respectfully submitted,

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ATTORNEYS FOR OPPOSER

Dated: December 6, 2012